

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 2:19-CR-00099

CHRISTOPHER GARDNER,

Defendant.

**DEFENDANT'S MOTION FOR MODIFICATION
OF SCHEDULING ORDER**

Defendant Christopher Gardner, by his counsel, Jason D. Luczak and Nicole M. Masnica of Gimbel, Reilly, Guerin & Brown LLP, hereby moves the Court for a modification of the scheduling order amended on December 21, 2022, granting the parties an additional sixty days from today's date to file additional pretrial motions, creating a new deadline for submission of supplemental pretrial motions of March 20, 2023.

An indictment charging Christopher C. Gardner with four counts of Wire Fraud was issued in this case on May 29, 2019. Doc. #1. The case was subsequently designated complex by the district court following an oral motion made at the Initial Appearance hearing on June 17, 2022. The Court made a speedy trial finding at a counsel-only scheduling conference held on July 21, 2022, which excluded the 60 days between that hearing and the next, which was held on September 22, 2022. Doc. #19. Prior to the September hearing, the parties met and conferred regarding the deadlines for motions,

and undersigned counsel filed a letter proposing that defense motions be filed by December 20, 2022, the Government's response by January 10, 2023, and defense reply briefs by January 20, 2023. Doc #22. These proposed dates were adopted by the Court on September 22, 2022. Doc. #23. Defense filed two unopposed motions to modify the scheduling order, first on December 14, 2022, to extend the motion deadlines by two days to December 22, 2022, and a second on December 22, 2022, seeking a modification of the scheduling order to permit until January 18, 2023, for filing of motions. Doc #24; Doc. #25. The scheduling order was modified on both occasions by the Court on the same date the request was filed. The current deadline for motions to be filed is January 18, 2023.

As detailed during previous hearings and in written pleadings, this case involves a substantial amount of discovery, including thousands of pages of materials and transcripts, resulting in terabytes of materials to review. In addition to the initial discovery disclosures from the government, on December 9, 2022, the government provided additional more materials that included hundreds of hours of telephone calls and hundreds of text messages from the correctional facility where Gardner is currently being held without the ability to post bond.

While review of the vast majority of materials in this case has now been completed by the defense, the initial defense investigation has revealed significant, highly material information that must be explored further before the appropriate pretrial motions are to be filed. Additionally, Gardner has filed three evidentiary pretrial motions on today's date, the outcome of which have substantial implications regarding the admissibility of evidence related to the investigation and the need to file additional motions. Additional

pretrial legal issues that may become ripe for filing throughout the course of the investigation and further litigation include a motion seeking admissibility of other prior bad acts of numerous witnesses, admissibility of character for truthfulness, admissibility of expert testimony related to a variety of issues, a motion compelling production of grand jury testimony pursuant to Fed. R. Crim. P. 6(e)(3)(E), and a motion challenging the grand jury proceedings and the indictment itself. Filing those motions before the court rules on the current motions and ahead of the completion of the defense investigation would be premature.

While Gardner is certainly aware that the court and parties have an interest in moving this case forward, the private parties and government had years to conduct their investigation prior to the issuance of the indictment. Therefore, undersigned counsel is requesting that the deadlines for supplemental pretrial motions be expanded by sixty days, setting the deadline for motions to be filed on or before March 20, 2023, responses on or before April 11, 2023, and replies, if any, by April 21, 2023.

For these reasons, there is good cause to extend the deadline in this matter, and requests modification of the established scheduling order to reflect the dates listed above.

Dated this 18th day of January, 2023.

Respectfully submitted,

GIMBEL, REILLY, GUERIN & BROWN LLP

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